

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Chaves	Team: Squad #10	CCRB Case #: 201800688	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/22/2017 8:50 PM	Location of Incident: [REDACTED]	Precinct: 60	18 Mo. SOL 11/22/2018	EO SOL 11/22/2018	
Date/Time CV Reported Thu, 01/25/2018 3:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/25/2018 3:19 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. An officer			060 PCT
2. POM Thomas Decapua	18731	958481	060 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT America Jacquezventura	05346	947102	060 PCT
2. POM Kurt Cani	15367	948191	060 PCT
3. POM Anthony Contessa	28493	901356	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: At 2865 Brighton 3rd Street in Brooklyn, an officer searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
B.POM Thomas Decapua	Abuse: At 2865 Brighton 3rd Street in Brooklyn, Police Officer Thomas Decapua seized § 87(2)(b)'s property.	[REDACTED]
C.POM Thomas Decapua	Abuse: At the 60th Precinct stationhouse, Police Officer Thomas Decapua searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
D.POM Thomas Decapua	Discourtesy: At the 60th Precinct stationhouse, Police Officer Thomas Decapua spoke discourteously to § 87(2)(b).	[REDACTED]
E.POM Thomas Decapua	Abuse: At the 60th Precinct stationhouse, Police Officer Thomas Decapua damaged § 87(2)(b)'s property.	[REDACTED]

## Case Summary

On January 25, 2018, § 87(2)(b) filed the following complaint with the CCRB by phone.

At approximately 8:50 p.m. on May 22, 2017, Police Officer Thomas Decapua and Sergeant America Jacquez-Ventura of the 60<sup>th</sup> Precinct were interacting with § 87(2)(b) who was pulled over in the vicinity of 2865 Brighton 3<sup>rd</sup> Street in Brooklyn. While the officers were in the process of investigating § 87(2)(b) § 87(2)(b) reportedly stopped his vehicle next to § 87(2)(b)'s vehicle and allegedly interfered with the ongoing police action. Police Officer Kurt Cani and Police Officer Anthony Contessa of the 60<sup>th</sup> Precinct responded to the incident to support Police Officer Decapua and Sergeant Jacquez-Ventura in the multi-vehicle stop. An officer searched § 87(2)(b)'s vehicle (**Allegation A: Abuse of Authority: Vehicle Search:** § 87(2)(g)). § 87(2)(b) was arrested for obstructing governmental administration and failing to obey orders from police officers. Both § 87(2)(b) and his vehicle, along with § 87(2)(b) were taken to the 60<sup>th</sup> Precinct stationhouse ((**Allegation B: Abuse of Authority: Seizure of Property:** § 87(2)(g))).

At the 60<sup>th</sup> Precinct stationhouse, Police Officer Decapua conducted an inventory search of § 87(2)(b)'s vehicle (**Allegation C: Abuse of Authority: Vehicle Search:** § 87(2)(g)). § 87(2)(b) was placed into a holding cell and allegedly spoke to Police Officer Decapua about the arrest, with Police Officer Decapua saying “I fucked up” to him (**Allegation D: Discourtesy: Word:** § 87(2)(g)).

The next day, § 87(2)(b) returned to the stationhouse to retrieve his personal property. Police Officer Decapua allegedly handed him one of the two cellphones he had been carrying during the incident, and he saw that it was broken (**Allegation E: Abuse of Authority: Property Damage:** § 87(2)(g)).

The investigation obtained four videos related to this case (**Board Review 16, Board Review 17, Board Review 18, Board Review 19**). While these videos did not capture the allegations investigated, one of them does provide evidence relevant to **Allegation E**. An attorney was consulted for this case.

## Findings and Recommendations

**Allegation A – Abuse of Authority: At 2865 Brighton 3rd Street in Brooklyn, an officer searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) was interviewed at the CCRB on February 9, 2018 (**Board Review 01**). § 87(2)(b) provided a telephone statement on March 19, 2018 (**Board Review 02**). Police Officer Decapua was interviewed on April 4, 2018 (**Board Review 03**). Sergeant Jacquez-Ventura was interviewed on April 10, 2018 (**Board Review 04**). Police Officer Cani and Police Officer Contessa were interviewed on April 11, 2018 (**Board Review 05, Board Review 06**).

In his telephone statement, § 87(2)(b) stated that unspecified officers searched his vehicle. When asked by the investigator if he wished to file a complaint, § 87(2)(b) stated that he had no complaint against any of the involved officers and declined to appear at the CCRB to provide a sworn statement. Neither § 87(2)(b) nor any of the interviewed officers

mentioned § 87(2)(b)'s vehicle being searched during this incident. § 87(2)(g)

**Allegation B – Abuse of Authority: At 2865 Brighton 3rd Street in Brooklyn, Police Officer Thomas Decapua seized § 87(2)(b)'s property.**

It is undisputed that on the incident date, § 87(2)(b) was arrested in front of 2865 Brighton 3<sup>rd</sup> Street in Brooklyn. § 87(2)(b) was alone, and had no passengers who could take possession of his vehicle once he was under arrest. His arrest report, prepared by Police Officer Decapua, lists his vehicle as a 2017 Lexus sedan (**Board Review 07**). Upon being arrested, § 87(2)(b) was transported to the 60<sup>th</sup> Precinct stationhouse in a police vehicle, and his vehicle was driven to the stationhouse by an officer.

In his sworn statement, § 87(2)(b) reported that, immediately after Police Officer Decapua told him he was under arrest, Police Officer Decapua took one of his cellphones and his car key out of a cupholder inside of the vehicle. § 87(2)(b) did not see Police Officer Decapua or any other officer take any further actions inside of his vehicle while the vehicle was parked at the incident location.

In his interview, Police Officer Decapua stated that while he did not fully recall the incident, he “believed” that he drove § 87(2)(b)'s vehicle from Brighton 3<sup>rd</sup> Street to the 60<sup>th</sup> Precinct stationhouse.

According to the NYPD Patrol Guide, Section 218-12, a vehicle may be safeguarded at a command for forty-eight hours when not required as evidence (**Board Review 20**).

§ 87(2)(g)

**Allegation C – Abuse of Authority: At the 60th Precinct stationhouse, Police Officer Thomas Decapua searched the vehicle in which § 87(2)(b) was an occupant.**

In his interview, Police Officer Decapua stated that he searched § 87(2)(b)'s vehicle after it was brought to the stationhouse. During this search, Police Officer Decapua found narcotics inside of the vehicle. While Police Officer Decapua did not recall what type, quantity, or form factor of narcotics he found in the vehicle, or where in the vehicle he found them, the voucher that he prepared regarding the arrest lists over a gram of alleged ketamine (**Board Review 08**). When asked by the investigation if he prepared inventory search paperwork to document this search, Police Officer Decapua stated that he did so.

On January 31, 2018, the undersigned investigator requested all property vouchers prepared regarding § 87(2)(b)'s arrest from both IAB and the 60<sup>th</sup> Precinct (**Board Review 13**). On February 8, 2018, IAB provided a copy of a voucher prepared by Police Officer Decapua listing alleged ketamine as contraband belonging to § 87(2)(b) (**Board Review 08**). No other vouchers, including any voucher for § 87(2)(b)'s vehicle or its contents, were provided. On February 28, 2018, the 60<sup>th</sup> Precinct provided an identical copy of the ketamine contraband voucher, along with no other vouchers of any type. On March 13, 2018, the investigator re-requested additional vouchers from both IAB and the 60<sup>th</sup> Precinct. In both follow-

up requests, the investigator explicitly noted that the ketamine voucher had been received, and that the investigation was seeking additional vouchers for non-contraband property. On April 4, 2018, IAB provided a second copy of the already-provided ketamine voucher, but no additional vouchers (**Board Review 26**). On April 5, 2018, the 60<sup>th</sup> Precinct provided a document receipt noting no additional vouchers were on file (**Board Review 27**). Police Officer Decapua's memo book contains entries related to this incident but no mention of an inventory search or inventoried items (**Board Review 23**).

In addition, while Police Officer Decapua noted that § 87(2)(b)'s vehicle was seized on both the UF-61 and arrest report he prepared (**Board Review 25**), neither of these documents note or describe an inventory search. Similarly, while § 87(2)(b)'s arrest was noted in the 60<sup>th</sup> Precinct command log (**Board Review 25**), no inventory search was noted or described. Finally, while Sergeant Jacquez-Ventura, Police Officer Cani, and Police Officer Contessa all made memo book entries noting that they responded to this incident, none of them made entries noting or describing a vehicle inventory search (**Board Review 25**).

As of the date of this report, multiple requests to both IAB and the 60<sup>th</sup> Precinct have yielded no vouchers or other documents that describe the property § 87(2)(b) was carrying on his person and in his vehicle when he was arrested.

While an officer may conduct an inventory search of a seized vehicle without a warrant, the search must follow established department procedure and result in the generation of an actual inventory. *People v. Johnson* 1 N.Y.3d 252 (2003) (**Board Review 24**). According to the NYPD Patrol Guide, Section 218-13, whenever an automobile comes into the possession of the Police Department, an officer is required to conduct a thorough inventory search, prepare property vouchers for any valuable items, and list any property of little value in their memo book or activity log (**Board Review 09**).

§ 87(2)(g)

**Allegation D – Discourtesy: At the 60th Precinct stationhouse, Police Officer Thomas Decapua spoke discourteously to § 87(2)(b)**

In his sworn statement, § 87(2)(b) alleged while he was in a holding cell at the 60<sup>th</sup> Precinct stationhouse, he asked Police Officer Decapua whether he was going to be charged with possession of narcotics. Police Officer Decapua then replied, "I'm fucked up, wrong place, wrong time." § 87(2)(b) did not make this allegation in his original complaint to the CCRB.

PO DeCapua did not recall whether he had any interactions with § 87(2)(b) while he was in the holding cells, but said he "assumed so." PO DeCapua never said, "I fucked up" to § 87(2)(b) and did not hear another officer say this to him.

In their interviews, Sergeant Jacquez-Ventura, Police Officer Cani, and Police Officer Contessa did not recall hearing Police Officer Decapua say “I fucked up” to § 87(2)(b) and denied using this phrase themselves.

According to the NYPD Patrol Guide, Section 203-09, officers must be courteous and professional when interacting with civilians (**Board Review 10**).

The investigation obtained no video or audio recordings of this portion of the incident.

§ 87(2)(g)

**Allegation E – Abuse of Authority: At the 60th Precinct stationhouse, Police Officer Thomas Decapua damaged § 87(2)(b) s property.**

In his original complaint to the CCRB, § 87(2)(b) alleged that after he was released from police custody he returned to the 60th Precinct stationhouse to retrieve his property. He spoke to Police Officer Decapua, who returned his phone, which was broken.

In his sworn statement, § 87(2)(b) described having two cellphones with him during the incident, an Apple iPhone and a Samsung phone. Upon his release from police custody, § 87(2)(b) returned to the 60th Precinct stationhouse, where he spoke a male officer. This officer initially gave § 87(2)(b) a plastic bag containing § 87(2)(b) s iPhone, money clip, and cash. This bag did not contain § 87(2)(b) s Samsung phone.

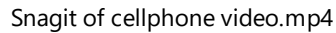
§ 87(2)(b) asked the officer to provide his second phone, and the officer said that the police did not have it. § 87(2)(b) asked the officer to go get Police Officer Decapua, and showed the officer the paperwork he had received at Central Booking. The officer looked at the papers, then called Police Officer Decapua on the phone. Police Officer Decapua came to the desk area and denied having the phone. § 87(2)(b) told the first officer that he knew Police Officer Decapua had his phone because he was recording with it during the incident, and that the recording was saved to “iCloud.” The first officer then walked over to Police Officer Decapua and spoke to him. § 87(2)(b) could see the two officers speaking but could not hear them due to the distance.

After approximately five to ten minutes, Police Officer Decapua left the desk area and then came back with the Samsung phone. The phone was bent, the screen was cracked, and the phone could not be turned on. § 87(2)(b) did not have the broken phone with him during the interview, and was unsure whether he had a photograph of it anywhere. He thought the broken phone itself might be at his uncle’s cell phone store, but was not sure.

In his sworn statement, Police Officer Decapua acknowledged that § 87(2)(b) was using a cellphone to record during portions of the incident. He denied seeing the phone or phones sustain any damage, or intentionally damaging the phone or phone themselves. He denied seeing § 87(2)(b) the day after his arrest, or speaking to him about his property on that date.

In their sworn statements, Sgt. Jacquez-Ventura, Police Officer Cani, and Police Officer Contessa denied having any recollection of § 87(2)(b) s phone or phones being damaged.

§ 87(2)(b) recorded a portion of this incident using one of his cellphones. He provided the resulting video to the investigation at the time of his sworn statement (**Board Review 12**).



According to the NYPD Patrol Guide, Section 218-01, whenever any property is taken into police custody it must be properly packaged and tracked via a property clerk invoice (**Board Review 11**).

§ 87(2)(g)

- This is § 87(2)(b)'s first CCRB complaint (**Board Review 21**).
- This is § 87(2)(b)'s first CCRB complaint (**Board Review 14**).
- Police Officer Decapua has been a member of service for two years and this is the first CCRB complaint in which he has been a subject.

- This case was unsuitable for mediation due to § 87(2)(b)'s arrest.
- A request for any Notice of Claim regarding this incident has been submitted to the New York City Comptroller's Officer, and the results will be added to the case file upon receipt.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City (**Board Review 22**).
- § 87(2)(b)

Investigator: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_

**CCRB Case # 201800688**

	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date